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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	Joseph M. Koenig, Jr.)	
)	
Application:	10/692,703)	Maurina T. Rachuba
)	Primary Patent Examiner
Filing Date:	October 24, 2003)	Art Unit 3723
)	
Docket No.:	TRI4546P0161US)	

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 41.37, this brief is being filed within two months from the date of filing of the notice of appeal, which was filed on January 4, 2006. You are authorized to charge the statutory fee for filing this brief to Deposit Account No. 23-0785.

Real party in interest

The real party in interest is Trim-Tex, Inc. of Lincolnwood, Illinois.

Related appeals and interferences

None.

Status of claims

Claims 1 through 8 have been finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Kingman (US 2,386,900) in view of Hays (US 2,553,254). Claims 9 through 12 have been withdrawn from further consideration.

Status of amendments

Subsequent to final rejection, no claim amendments have been filed.

Summary of claimed subject matter

As claimed in claim 1, upon which claims 2 through 8 depend, as described in the specification from page 3, line 17, through page 4, line 10, and as illustrated in the drawing, which has a single view, the claimed subject matter is a sanding block (10) conforming, when viewed macroscopically before the sanding block (10) becomes worn, substantially to a block having two expansive sides (12) and two adjacent sides (14). In the specification, on page 3, in line 20, the block is described as a parallelepiped.

Moreover, a given one of the expansive sides (12) is abrasive and has two opposite edges (20, 22), at each of which one of the adjacent sides (14) adjoins the given one of the expansive sides (12). Furthermore, a given one of the opposite edges (20, 22), when viewed macroscopically before the sanding block (10) becomes worn, is a sharp edge (22) while the other one of the opposite edges (20, 22), when viewed macroscopically before the sanding block (10) becomes worn, is a curved edge (20).

Grounds of rejection to be reviewed on appeal

One ground of rejection is to be reviewed on appeal, namely, the final rejection of claims 1 through 8 as being unpatentable over Kingman (US 2,386,900) in view of Hays (US 2,553,254).

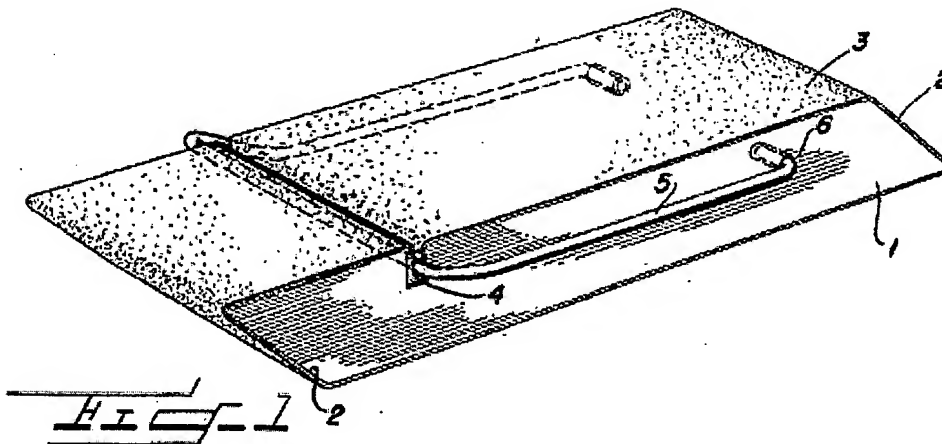
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Argument

In the Office Action mailed July 20, 2004, the primary examiner acknowledged that Kingman does not disclose “that two opposing edges are curved, and [that] two opposing edges are sharp.” In the Office Action dated August 4, 2005, the primary examiner commented that “[t]he examiner agrees that the edges disclosed by Hays are not knife-edges, or edges shaped to such a degree that they are cutting edges.”

Such comments are inapposite, as claim 1 does not call for a knife edge, or for a cutting edge, but claims that “a given one of the opposite edges, when viewed macroscopically before the sanding block becomes worn, is a sharp edge[.]” It is submitted that an edge that is sharp, when viewed macroscopically, does not have to be a knife edge or a cutting edge. It is submitted, further, that an edge that is rounded, when viewed macroscopically, is not a sharp edge.

From Figure 1 of Hays, as reproduced below, it is evident that the upper left and lower right edges of the block, around which the sanding strip is wrapped, are rounded to a smaller radius and that the upper left and lower right edges of the sanding strip, which is wrapped around the block, are rounded to a larger radius. Clearly, therefore, the upper left and lower right edges of the sanding device of Hays are not sharp edges.



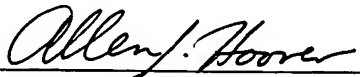
Application No. 10/692,703

APPEAL BRIEF

Page 4

Because the sanding device of Hays does not have the “sharp” edges required to satisfy the limitations of claim 1, it is submitted that no modification of the sanding device of Kingman in view of Hays would result in the sanding block being claimed and that, therefore, the final rejection of claims 1 through 8 as being unpatentable over Kingman in view of Hays is erroneous.

Respectfully submitted,

By 
Allen J. Hoover
Reg. No. 24,103

March 2, 2006

Claims appendix

1. A sanding block conforming, when viewed macroscopically before the sanding block becomes worn, substantially to a block having two expansive sides and two adjacent sides, wherein a given one of the expansive sides is abrasive, wherein the given one of the expansive sides has two opposite edges, at each of which one of the adjacent sides adjoins the given one of the expansive sides, wherein a given one of the opposite edges, when viewed macroscopically before the sanding block becomes worn, is a sharp edge, and wherein the other one of the opposite edges, when viewed macroscopically before the sanding block becomes worn, is a curved edge.

2. The sanding block of claim 1 wherein, when viewed macroscopically before the sanding block becomes worn, the curved edge defines a radius not less than about $\frac{1}{8}$ inch at any location on said curved edge.

3. The sanding block of claim 1 wherein, when viewed macroscopically before the sanding block becomes worn, the sharp edge defines an acute angle in a range from about 55° to about 70° .

4. The sanding block of claim 2 wherein, when viewed macroscopically before the sanding block becomes worn, the sharp edge defines an acute angle in a range from about 55° to about 70° .

5. The sanding block of claim 1 wherein the adjacent side adjoining the given one of the expansive sides at the sharp edge also is abrasive.

6. The sanding block of claim 2 wherein the adjacent side adjoining the given one of the expansive sides at the sharp edge also is abrasive.

7. The sanding block of claim 3 wherein the adjacent side adjoining the given one of the expansive sides at the sharp edge also is abrasive.

8. The sanding block of claim 4 wherein the adjacent side adjoining the given one of the expansive sides at the sharp edge also is abrasive.

9. The sanding block of claim 5 wherein the other one of the expansive sides and the other one of the adjacent sides also are abrasive.

10. The sanding block of claim 6 wherein the other one of the expansive sides and the other one of the adjacent sides also are abrasive.

11. The sanding block of claim 7 wherein the other one of the expansive sides and the other one of the adjacent sides also are abrasive.

12. The sanding block of claim 8 wherein the other one of the expansive sides and the other one of the adjacent sides also are abrasive.

[to next page]

Application No. 10/692,703

APPEAL BRIEF

Page 7

Evidence appendix

None.

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Application No. 10/692,703

APPEAL BRIEF

Page 8

Related proceedings appendix

None

[end]